

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
FAIGY RACHEL WEISS,	:	
	:	
Plaintiff,	:	NOTICE OF MOTION
	:	TO DISMISS THE
- against -	:	AMENDED COMPLAINT
	:	
CITY UNIVERSITY OF NEW YORK (“CUNY”),	:	17 Civ. 3557 (VSB)
MEMBERS OF THE CITY UNIVERSITY OF	:	
NEW YORK BOARD OF TRUSTEES in their	:	ORIGINAL FILED BY ECF
official and individual capacities, HUNTER	:	
COLLEGE OF THE CITY UNIVERSITY OF	:	
NEW YORK, THE SILBERMAN SCHOOL OF	:	
SOCIAL WORK AT HUNTER COLLEGE,	:	
JAMES MILLIKEN, in his individual and personal	:	
capacity, NIREATA D. SEALS, in her individual	:	
and official capacity, JOHN ROSE, in his	:	
individual and official capacity, JENNIFER RAAB,	:	
in her individual and official capacity, ROBERTA	:	
NORD, in her individual and official capacity,	:	
ERIC T. SCHNEIDERMAN, in his individual and	:	
official capacity, ¹	:	
	:	
Defendants.	:	
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PLEASE TAKE NOTICE, that upon the accompanying declaration of Assistant Attorney General Steven L. Banks and the exhibits thereto, the accompanying Memorandum of Law in Support of Defendants’ Motion to Dismiss the Amended Complaint, and all prior pleadings, papers and proceedings herein, Barbara D. Underwood, Attorney General of the State of New

¹ By operation of Rule 25(d) of the Federal Rules of Civil Procedure, Interim CUNY Chancellor Vita C. Rabinowitz was automatically substituted as a defendant for the official capacity claims asserted against former CUNY Chancellor James Milliken. While former Attorney General Eric T. Schneiderman was named in this action in his individual and official capacities, plaintiff has failed to effect service upon him or this Office.

York, as attorney for Defendants THE CITY UNIVERSITY OF NEW YORK (“CUNY”),² JAMES MILLIEN, NIREATA D. SEALS, JOHN ROSE, JENNIFER RAAB, and ROBERTA NORD, will move this Court before the Honorable Vernon S. Broderick, in accordance with the Court’s Individual Practices, at the United States District Courthouse for the Southern District of New York located at 40 Foley Square, New York, New York, for an order pursuant to Rule 12(b)(1) and Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Amended Complaint with prejudice, and for such further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to the Order dated May 3, 2018 (ECF 33), papers opposing this motion are to be filed on or before August 20, 2018, and reply papers are to be filed on or before September 11, 2018.

Dated: New York, New York
June 19, 2018

Respectfully submitted,

BARBARA D. UNDERWOOD
Attorney General of the
State of New York
Attorney for Defendants
CUNY, Milliken, Rose, Seals, Raab, Nord
By:

s/Steven L. Banks
STEVEN L. BANKS
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² Senior colleges in the CUNY system are not “legally cognizable entit[ies] apart from CUNY.” Clissuras v. City Univ. of N.Y., 359 F.3d 79, 81 n.2 (2d Cir. 2004) (per curiam), cert. denied, 543 U.S. 987 (2004). See also N.Y. Educ. Law § 6203 (establishing CUNY as a distinct corporate body). CUNY is the sole proper institutional defendant in this action.

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